

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**JL Troupe Company, Inc.  
Huntsville, Madison County, Alabama  
EPA Identification Number ALR000004879**

ORDER NO. 14-XXX-CHW

**PREAMBLE**

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter “the Department” or “ADEM”) and JL Troupe Company, Inc. pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.), and the Alabama Hazardous Wastes Management and Minimization Act (hereinafter “AHWMMA”), Ala. Code §§ 22-30-1 to 22-30-24 (2006 Rplc. Vol.), and the regulations promulgated pursuant thereto.

**STIPULATIONS**

1. JL Troupe Company, Inc. (hereinafter “JL Troupe Company”) is a mechanical engineering company, which owns/operates an industrial and graphic design, electro-mechanical assembly, and sheet metal fabrication facility with EPA Identification Number ALR000004879, located at 7266 Governors West in Huntsville, Madison County, Alabama. At all times relevant to this action, JL Troupe Company was a small quantity generator of hazardous waste.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16 (2006 Rplc. Vol.).
3. Pursuant to Ala. Code § 22-22A-4(n) (2006 Rplc. Vol.), the Department is the state agency responsible for the promulgation and enforcement of solid and hazardous waste regulations in accordance with the federal Solid Waste Disposal Act §§ 1002 to 11012, 42 U.S.C. §§ 6901 to 6992k, as amended. In addition, the Department is authorized to administer and enforce the provisions of the AHWMMA, Ala. Code §§ 22-30-1 to 22-30-24 (2006 Rplc. Vol.).

## **DEPARTMENT'S CONTENTIONS**

4. On March 20, 2013, a representative of the Department's Industrial Hazardous Waste Branch conducted a compliance evaluation inspection (CEI) of JL Troupe Company. Based on information collected during the March 20, 2013 inspection, the Department issued to JL Troupe Company a Noncompliance Warning, noting areas of noncompliance that were observed or existed at the time of the CEI.

5. On April 26, 2013, the Department received JL Troupe Company's response to the aforementioned Noncompliance Warning notifying the Department of corrective actions it had taken to address the areas of noncompliance observed at the time of the inspection on, March 20, 2013.

6. Based on information provided by JL Troupe Company's response to the March 20, 2013, the Department determined that JL Troupe Company had violated certain requirements of Division 14 of the ADEM Administrative Code. Specifically, the Department identified the following violations:

(a) Pursuant to ADEM Admin Code r. 335-14-3-.03(5)(g), a small quantity generator who accumulates hazardous waste in quantities exceeding 6000 kilograms or accumulates hazardous waste for more than 180 days is an operator of a storage facility and is subject to the requirements of 335-14-5, 335-14-6, and 335-14-8 unless he has been granted an extension to the 180 day period. ADEM Admin. Code r. 335-14-8-.01(1)(c) requires a permit for the "storage" of any "hazardous waste" as identified or listed in Chapter 335-14-2.

At the time of the inspection, JL Troupe Company had accumulated eleven full 55-gallon drums of hazardous waste chromate paint stripper (D007). A review of hazardous waste manifests and statements made by the facility representative indicated that on December 17, 2011 JL Troupe Company shipped off site for disposal all hazardous waste that it had accumulated up to that date; no manifests were provided for shipments of hazardous wastes after December 17, 2011. JL Troupe Company exceeded the time a small quantity generator is allowed to accumulate a hazardous waste without a storage facility permit.

b) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(d)5. referencing ADEM Admin. Code r. 335-14-.03(5)(a)2., a small quantity generator may accumulate hazardous waste on site for 180 days or less without a permit provided the date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container.

JL Troupe Company did not mark eleven 55-gallon drums of D007 waste chromate paint stripper located in the 180-Day Hazardous Waste Container Storage Area with an accumulation start date.

(c) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(d)5. referencing ADEM Admin. Code r. 335-14-3-.03(5)(a)3., a small quantity generator may accumulate hazardous waste on site for 180 days or less without a permit provided that while being accumulated on site each container of hazardous waste must be labeled or marked clearly with the words "Hazardous Waste" and the EPA hazardous waste number.

JL Troupe Company did not mark or label the aforementioned containers of hazardous waste with the words "Hazardous Waste" or the applicable EPA hazardous waste number(s).

(d) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(d)5. referencing ADEM Admin. Code r. 335-14-6-.03(8)(b), a small quantity generator must maintain at the facility documentation demonstrating its attempts to make arrangements with local authorities including local law enforcement, local hospitals, fire departments, and emergency response teams to familiarize them with the facility.

JL Troupe Company did not maintain on site documentation demonstrating its attempts to make arrangements with local law enforcement and emergency response teams to familiarize them with the facility's current layout, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, and entrances to roads inside the facility and possible evacuation routes.

(e) Pursuant to ADEM Admin. Code r.335-14-3-.03(5)(d)2. referencing ADEM Admin. Code r. 335-14-6-.09(5), the generator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration of containers and the containment system caused by corrosion or other factors. These inspections must be documented in accordance with ADEM Admin.

Code r. 335-14-6-.02(6)(d). ADEM Admin. Code r. 335-14-6-.02(6)(d) requires the generator to record the inspections in an inspection log or summary. He must keep these records for at least three years from the date of inspection.

JL Troupe Company did not maintain any documentation of weekly inspections of the 180-Day Hazardous Waste Container Storage Area.

(f) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(d)6.(iii), Employees must complete an initial training program in hazardous waste management within six months after the date of their employment or assignment to a new position, whichever is later. Employees must not work in unsupervised positions until they have completed the training requirements of 335-14-6-.02(8)(b).

JL Troupe Company did not provide the required employees with any hazardous waste management training.

(g) Pursuant to ADEM Admin. Code r. 335-14-3-.03(5)(d)7., a generator must maintain sufficient documentation to demonstrate the quantity of hazardous waste generated each calendar month. This documentation must be retained on site for at least three years from the date the waste was generated.

JL Troupe Company did not maintain sufficient documentation to demonstrate the quantity of hazardous waste generated each calendar month.

7. Based on a review of JL Troupe Company's submittal, the Department issued to JL Troupe Company a Notice of Violation, citing certain violations of the hazardous waste regulations, on August 13, 2013.

8. On August 30, 2013, the Department received JL Troupe's response to the Department's Notice of Violation.

9. Pursuant to Ala. Code § 22-22A-5(18) (2006 Rplc. Vol.), as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation(s), including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such person's efforts to

minimize or mitigate the effects of such violation(s) upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000.00. Each day such a violation continues shall constitute a separate violation.

10. In arriving at the civil penalty assessed in this Order, the Department has considered the following:

(a) **SERIOUSNESS OF THE VIOLATIONS:** The Department noted twelve violations of ADEM Admin. Code div. 335-14 and the AHWMMMA. In arriving at the civil penalty, the Department considered the general nature and magnitude of the violations along with the available evidence of irreparable harm to the environment or threat to the public.

(b) **THE STANDARD OF CARE:** In considering the standard of care manifested by JL Troupe Company, the Department noted that the violations listed above were easily avoidable. Consequently, JL Troupe Company did not exhibit a standard of care commensurate with applicable regulatory standards.

(c) **ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED:** The Department has determined that there was no significant economic benefit gained by JL Troupe Company as a result of the violations.

(d) **EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT:** The Department is unaware of the nature, extent, and degree of success of JL Troupe Company's efforts to minimize or mitigate the effects of the above violations upon the environment.

(e) **HISTORY OF PREVIOUS VIOLATIONS:** Based on a review of Department records, JL Troupe Company does not have a documented history of noncompliance with respect to ADEM Admin. Code div. 335-14 or the AHWMMMA.

(f) **THE ABILITY TO PAY:** JL Troupe Company has not alleged an inability to pay the civil penalty.

(g) OTHER FACTORS: It should be noted that this Consent Order is a negotiated settlement and, therefore, the Department has compromised the amount of the appropriate penalty that is warranted in the spirit of cooperation and the desire to resolve this matter amicably without incurring the unwarranted expense of litigation (see Attachment A, which is made a part of the Department's contentions).

11. The Department neither admits nor denies JL Troupe Company's contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

#### **FACILITY'S CONTENTION**

9. JL Troupe Company avers that since its founding, it has maintained the highest standard of business ethic and has strived to be a good steward of the environment. All findings of the March 20, 2013 ADEM inspection have been addressed and we believe satisfied. As to Stipulation 10 © "Economic Benefit" JL Troupe Company contends there was no economic benefit in allowing delay over the allotted time period for disposing of 11 drums of D007 Hazardous Waste, but rather a lapse in oversight or failure to act within the required time limit. As a matter of fact, JL Troupe Company was in the process of disposing of the material in question at the time of the inspection. Reference on file: Our invoice paid to Home and Environmental Solutions LLC in the amount of \$13,639.50 dated March 28, 2013. Further, since December 2011, JL Troupe Company has spent \$26,367.41 on waste disposal. In summary, JL Troupe Company attests that to the best of our knowledge, we have fully complied with and satisfied all findings made by ADEM inspections and going forward we will continue to fully comply with all applicable standards. In the future, we welcome any inspections for compliance.

10. JL Troupe Company neither admits nor denies the Department's contentions. JL Troupe Company consents to abide by the terms of this Consent Order.

## ORDER

THEREFORE, without admitting that it has violated any statutes or regulations, JL Troupe Company, along with the Department, desires to resolve and settle the alleged violation cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code § 22-22A-5(18)c., as amended, as well as the need for timely and effective enforcement; the Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and JL Troupe Company agree to enter into this Consent Order with the following terms and conditions:

A. JL Troupe Company agrees to pay to the Department a civil penalty in the amount of \$14,000 in settlement of the violation alleged herein within forty-five days from the effective date of this Consent Order. Failure to pay the civil penalty within forty-five days from the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. JL Troupe Company agrees that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check or other payment methods acceptable to the Department and shall be remitted to:

Office of General Counsel  
Alabama Department of Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463

Any payment submitted to the Department pursuant to this Order shall reference JL Troupe Company's name and address, and the ADEM Administrative Order number of this action.

C. JL Troupe Company agrees that, independent of this Consent Order, JL Troupe Company shall comply with all terms, conditions, and limitations of the AHWMMMA, Ala. Code §§ 22-30-1 to 22-30-24 as amended, and the regulations promulgated pursuant thereto.

D. The Department and JL Troupe Company (hereinafter the "parties") agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or

she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

E. The parties agree that, subject to the terms of these provisions and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations cited in this Consent Order.

F. JL Troupe Company agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

G. For purposes of this Consent Order only, JL Troupe Company agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County.

H. The parties agree that the sole purpose of this Consent Order is to fully resolve, settle and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate; JL Troupe Company agrees not to object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order if future orders, litigation, or other enforcement action address new matters not raised in this Consent Order.

I. The parties agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and JL Troupe Company does hereby waive any hearing on the terms and conditions of this Consent Order.

J. The parties agree that this Consent Order shall not affect JL Troupe Company's obligation to comply with any Federal, State, or local laws or regulations.

K. The parties agree that final approval and entry into this Consent Order are subject to the requirements that the Department give notice of proposed Orders to the public, and that the public have at least thirty days within which to comment on the Consent Order.



L. The parties agree that, should any provision of this Consent Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

M. The parties agree that any modifications of this Consent Order must be agreed to in writing signed by both parties.

N. The parties agree that, except as otherwise set forth herein, this Consent Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve JL Troupe Company of its obligations to comply in the future with any permit.

**Executed in duplicate, with each part being an original.**

JL Troupe Company, Inc.

**ALABAMA DEPARTMENT OF ENVIRONMENTAL  
MANAGEMENT**

\_\_\_\_\_  
(Signature of Authorized Representative)

\_\_\_\_\_  
Lance R. LeFleur  
Director

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Printed Title)

\_\_\_\_\_  
(Date Signed)

\_\_\_\_\_  
(Date Executed)

**Attachment A**

JL Troupe Company, Inc.  
Huntsville, Madison County, Alabama  
EPA Identification Number ALR000004879

<b>Violation</b>	<b>Number of Violations*</b>	<b>Seriousness of Violation*</b>	<b>Standard of Care*</b>	<b>History of Previous Violation*</b>
Accumulation of hazardous waste beyond 180 days	1	\$10,000	\$1,000	\$0
Failure to mark all storage containers with start accumulation dates	11	\$1,100	\$550	\$0
Failure to mark all storage containers with the words "Hazardous Waste" and applicable waste codes	11	\$1,100	\$550	\$0
Failure to submit the required documentation of arrangements with the appropriate local authorities and emergency responders	1	\$100	\$50	\$0
Failure to conduct inspections of the container storage area	1	\$500	\$250	\$0
Failure to document the amount of waste generated each month	1	\$100	\$50	\$0

<b>Violation</b>	<b>Number of Violations*</b>	<b>Seriousness of Violation*</b>	<b>Standard of Care*</b>	<b>History of Previous Violation*</b>	
Failure to provide hazardous waste management training records to the required personnel	1	\$500	\$250	\$0	<b>Total of Three Factors</b>
<b>TOTAL PER FACTOR</b>		\$13,400	\$2,700	\$0	\$16,100

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	(\$2,100)
Total Adjustments (+/-) <i>Enter at Right</i>	(\$2,100)

Economic Benefit (+)	\$0
Amount of Initial Penalty	\$16,100
Total Adjustments (+/-)	(\$2,100)
<b>FINAL PENALTY</b>	<b>\$14,000</b>

Footnotes

\* See the "Department Contentions" portion of the Order for a detailed description of each violation and the penalty factors.